



CONNECTICUT
LEGAL
RIGHTS
PROJECT, INC.

TESTIMONY OF KATHLEEN FLAHERTY, ESQ.
EXECUTIVE DIRECTOR, CT LEGAL RIGHTS PROJECT, INC.
AGING COMMITTEE PUBLIC HEARING 3-3-2016

Concerning: HB 5361, AN ACT CONCERNING A PROTECTED PERSON'S RIGHT TO INTERACT WITH OTHERS.

Senator Flexer, Representative Serra, and distinguished members of the Aging Committee:

Good morning. My name is Kathy Flaherty and I'm the Executive Director of Connecticut Legal Rights Project (CLRP), a statewide non-profit agency that provides legal services to low income adults with serious mental health conditions. CLRP was established in 1990 pursuant to a Consent Order which mandated that the state provide funding for CLRP to protect the civil rights of DMHAS clients who are hospitalized, as well as those clients who are living in the community. I'm also the Vice Chair of the Keep the Promise Coalition (KTP). KTP is a coalition of advocates (people living with mental illness, family members, mental health professionals and interested community members) dedicated to ensuring that a comprehensive, community mental health system is created and sustained for children, adults and families in Connecticut.

Connecticut Legal Rights Project supports the intent of this bill which would protect the rights of protected persons to interact with family and friends. However, we question whether this bill is truly necessary, because under existing law, a person for whom a conservator is appointed retains all civil rights and retains the ability to make decisions, unless the court order appointing the conservator specifically puts those decisions within the conservator's purview. C.G.S. § 45a-650(k).

This bill would provide additional protection by making it crystal clear that a conservator has no authority to restrict the right of a protected person to interact with others without an order from the probate court. The bill would put in place a good cause requirement for a conservator seeking such an order. The bill also outlines the standards the probate court must use when considering the request for an order restricting the rights of a conserved person to interact with others.

When a probate court appoints a conservator of the estate or of the person, the court is required to make several findings by clear and convincing evidence; first, that the individual is incapable of managing his/her own affairs or caring for him/herself; second, that a person's affairs or personal care cannot be addressed adequately other than through appointment of a conservator; and third, that appointment of a conservator is the least restrictive alternative. C.G.S. § 45a-650 (f). Orders appointing a conservator should not be plenary orders, but instead should "assign to a conservator appointed under this section only the duties and authority that are the least restrictive means of intervention necessary to meet the needs of the conserved person. The court shall find by clear and convincing evidence that such duties and authority restrict the decision-making authority of the conserved person only to the extent necessary to provide for the personal needs or property management of the conserved person. Such personal needs and property management shall be provided in a manner appropriate to the conserved person. The court shall make a finding of the clear and convincing evidence that supports the need for each duty and authority assigned to the conservator." C.G.S. §45a-650 (l).

A careful reading of the conservatorship statute demonstrates that the language proposed in this bill may not, in fact, be necessary because existing law already provides this protection. However, to the extent that this language does not present any additional restrictions on the rights of our clients, and in fact, provides protection for their rights, CLRP supports this bill.